

REMARKS

Claims 17-32 were pending as of the Office Action of February 26, 2008, with claim 33 being added with this Response. Claims 24, 30, and 32 are amended. Applicant respectfully thanks the Examiner for indicating the allowable subject matter of claims 28-31.

Objections to the Claims

Claims 24 and 30 are objected to for various informalities. In response, Applicant respectfully amends claims 24 and 30.

Rejections under 35 U.S.C. §112, second paragraph

Claim 32 is rejected under 35 U.S.C. §112, second paragraph for being indefinite. In response, Applicant respectfully amends claim 32.

Rejections under 35 U.S.C. §102(b)

Claims 17-22, 24, 26, and 27 have been rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 1,796,147 to Green (“Green” hereinafter). Applicant respectfully traverses this rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant’s claim 17 recites *inter alia*:

“at least two deformable anchoring claws, each of said anchoring claws having one end which is borne by said lower end of said central support rod and another end passing through a through opening in said tube wall near said drive-in spike, said through openings having a geometry such that they cause said anchoring claws to deploy at an angle along said tube in the opposite direction to said drive-in direction when an axial traction is exerted on said central support rod in the opposite direction to said drive-in direction.”

Green does not teach deformable anchoring claws that deploy along a tube in a direction opposite of a drive-in direction of the tube when an axial traction is exerted on the central support rod in an opposite direction to the drive in direction (i.e. when the central support rod is forced upwardly into its extreme upward position). On the contrary, when the rod 6 of the anchor in Green is forced downwardly to its extreme lower position (as shown in Figure 2), the flukes 4 are deflected outwardly or laterally by the lower walls of their respective openings 3 until the flukes 4 assume substantially horizontal positions (please see page 3, lines 17-31). Thus, Green teaches the articulated flukes 4 to be deployed in a substantially horizontal position relative to the ground when an axial pushing force is exerted on the rod 6 in the drive in direction. It should be therefore noted that when the rod 6 is forced upwardly in the anchor of Green (i.e. in the opposite direction to the drive-in direction of the anchor), the flukes 4 are withdrawn inwardly within the tubular case of the anchor (please see page 3, lines 32-42).

Applicant also notes that claim 17 recites *inter alia*:

“wherein, for exerting said axial traction on said central support rod in the opposite direction to said drive-in direction, said second coupling means is coupled to said first coupling means equipping said upper end of said support rod, and said nut screwed on said upper end of said threaded rod is rotated in a first direction while it bears on said tube head.”

Green does not teach a nut configured to deploy flukes of an anchor. On the contrary, the screw 21 and/or nut 24 shown in Figure 4 of Green are taught to withdraw the flukes 4 of Green into the tubular case of the anchor.

For at least the above reasons, Applicant respectfully submits that Green does not teach every element of Applicant’s claim 17, or claims 18-22, 24, 26, and 27 that depend therefrom. Thus, Green does not anticipate Applicant’s claims 17-22, 24, 26, and 27.

With more specific reference to dependent claims 18-22 and 26, Applicant also respectfully notes the following:

Regarding Claim 18, Applicant respectfully submits that the cup nut 11 in Fig. 4 of Green is not capable of forming a backstop for the nut 24, when the latter is turned in a second direction, in order to move the rod 6 into the tubular case of the anchor.

Regarding Claim 19, Applicant respectfully submits that Green does not teach any kind of backstop for the nut 24 that would allow a pushing of the rod 6 into the tubular case of the anchor with the help of the nut 24.

Regarding Claim 20, Applicant respectfully submits that Fig. 4 does not show any stirrup piece.

Regarding Claim 21, Applicant respectfully submits that the coupling means shown in Fig. 4 is not a bayonet connection. Instead, green teaches the two parts 6 and 21 to be fixed by a locking pin 23.

Regarding Claim 22, Applicant respectfully submits that in the device of Green et al, the flukes 4 are obviously rigid arms pivotably attached at 5 to the operating rod 6.

Regarding Claim 26, Applicant respectfully submits that the fact that Green discloses that "the rod 6 is reciprocally movable vertically within the tubular case coaxial therewith" does not necessarily mean that this rod 6 has its lower end and its upper end axially guided in the tubular case.

Rejections under 35 U.S.C. §103(a)

Claims 23 and 25 have been rejected under 35 U.S.C. §103(a) as being obvious over Green and claim 32 has been rejected over Green in view of United States Patent No. 3,507,081 to Gallup ("Gallup" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some

suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 23, 25, and 32 depend from claim 17. As such, for at least the reasons set forth in the 102 section, Green does not teach every element of these claims. With reference to claim 32, since Gallup does not remedy the above-discussed deficiencies of Green (Gallup does not disclose any anchoring claws), a proposed combination of Green and Gallup does not teach every element of Applicant's claim 32. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 23, 25, and 32 with respect to Green or the proposed combination of Green and Gallup. Since neither Green nor the proposed combination of Green and Gallup teach or suggest all of the limitations of claims 23, 25, and 32, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,
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